

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELECTRONICALLY FILED
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DATE FILED: <u>7/12/2021</u>

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MICHAEL GELBART,

Plaintiff,

-against-

THE GUARDIAN LIFE INSURANCE
COMPANY OF AMERICA et al.,

Defendants.
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21-CV-3315 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

Plaintiff filed his Complaint in this action on April 16, 2021, (Doc. 6), and served Defendants with the Complaint on April 22, 2021, (Docs. 10–12). On June 17, 2021, I signed a stipulation extending Defendants’ deadline to answer or otherwise respond to the Complaint until July 14, 2021, but which does not indicate that Defendants consented to the filing of any amended complaint. (Doc. 17.) On July 6, 2021, Plaintiff filed a First Amended Complaint and an accompanying exhibit. (Docs. 18–19.)

“A party may amend its [complaint] once as a matter of course within 21 days after serving it.” Fed. R. Civ. P. 15(a)(1)(A). “In all other cases, a party may amend its [complaint] only with the opposing party's written consent or the court's leave.” Fed. R. Civ. P. 15(a)(2). More than 21 days has lapsed between the time that Plaintiff served his Complaint and the time he filed his First Amended Complaint. The First Amended Complaint does not contain an accompanying motion for leave or indicate that Defendants consent to the filing. Accordingly, it is hereby:

ORDERED that Plaintiff’s First Amended Complaint, (Docs. 18–19), is untimely and improperly filed. Rule 15 does not give parties additional time to file amended pleadings just

because opposing parties have been granted extensions to file their responsive pleadings.

IT IS FURTHER ORDERED that if Plaintiff intends to file an amended complaint, he must either file a motion for leave or indicate that Defendants have provided written consent, as contemplated by Rule 15(a)(2).

SO ORDERED.

Dated: July 12, 2021
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

VERNON S. BRODERICK
United States District Judge